

ADOLFO B. BENAVIDES, PLAINTIFF AND APPELLEE, VS. EDUARDO ALABASTRO, DEFENDANT AND APPELLANT.

G.R. No. 19762. December 23, 1964

Ponente: BAUTISTA ANGELO, J.

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BAUTISTA ANGELO, J.:

On August 26, 1955, the Municipal Court of Manila rendered judgment ordering Eduardo Alabastro to pay to Ajax International Corporation the sum of P274.85, with interest thereon at the rate of 12% per annum from January 25, 1955, plus 20% of the total amount due as attorney's fees, and the costs of action.

On January 6, 1961, Ajax International Corporation assigned its rights under the foregoing judgment to one Adolfo B. Benavides of which Alabastro was notified by registered mail on July 24, 1961. By virtue of this assignment, Benavides demanded from Alabastro the payment of the judgment rendered against him which as of June 20, 1961 amounted to P438.73, and having failed to meet the demand, Benavides commenced the present action on January 26, 1962, before the Court of First Instance of Manila to recover the amount abovementioned, with corresponding interest thereon, plus 25% attorney's fees, and the costs of action.

Defendant answered the complaint denying its important allegations and setting up certain affirmative defenses.

On March 9, 1962, after plaintiff had asked for judgment on the pleadings, which the court granted over defendant's opposition, the court a quo rendered decision ordering defendant to pay plaintiff the sum of P247.85, with interest thereon at the rate of 12% per annum from January, 1955, plus 20% of the amount due as attorney's fees, and the costs of action.

Defendant now comes before this Court assigning as main error that the court a quo erred in rendering decision merely on a motion for judgment on the pleadings.

Defendant, in his answer, states that, with regard to paragraph 1 of the complaint, "he has no knowledge or information sufficient to form a belief as to the truth of the rest of the allegations therein and therefore specifically denies the same," and as to the rest of the complaint, he further stated that "he has no knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs 2, 3, 4, 5, and 6 of the complaint and therefore specifically denies the same." And as an affirmative defense, defendant stated that plaintiff's claim has already been extinguished and as such it cannot be the subject of a valid assignment because it has not been revived before such assignment.

Section 10, Rule 8, of our Rules of Court provides that "where the defendant is without knowledge or information sufficient to form a belief as to the truth of a material averment made in the complaint, he shall so state, and this shall have the effect of a denial." And in *Philippine National Bank vs. Lacson*, L-9419, May 29, 1957, this Court held:

"The defendant-executrix in answer stated that she was without knowledge or information sufficient to form the belief as to the truth of the basic allegations of said complaint. Acting upon the motion of plaintiff's

counsel for judgment on the pleadings x x x the court rendered judgment in favor of the plaintiff Bank and against the defendant-executrix, x x x. Defendant is appealing that decision, claiming that according to Rule 9, Section 7 of the Rules of Court, (now Section 10, Rule 8) where the defendant is without knowledge or information sufficient to form a belief as to the truth of a material allegation made in the complaint, and said defendant so states in the answer, that will have the effect of a denial, and consequently, her answer tendered an issue. We agree with the defendant.

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Anyway, there would be no harm in giving the defendant her day in court, and hold a hearing, so that she may know the evidence of the plaintiff in support of its complaint, after which she may adduce her own evidence, if any, in support of her defense. In view of the foregoing, the decision appealed from is hereby set aside and the case is ordered remanded to the trial court for further proceedings."

It thus appears that judgment on the pleadings can only be rendered when the pleadings of the party against whom the motion is directed, be he the plaintiff or defendant, does not tender any issue, or admits all the material allegations of the pleading of the movant, otherwise judgment on the pleadings cannot be rendered (*Fabella, et al. vs. The Provincial Sheriff of Rizal, et al.*, 94 Phil., 35). Here, defendant's answer tenders an issue, for it does not only deny the material allegations of the complaint, but it sets up certain special and affirmative defenses. The nature of such answer calls for presentation of evidence and, therefore, it is error to render decision thereon without it.

WHEREFORE, the decision appealed from is reversed. The case should be remanded to the lower court for further proceedings. Costs against appellee.

Bengzon, C. J., Concepcion, Reyes, J. B. L., Barrera, Paredes, Dizon, Regala, Makalintal, Bengzon, J. P., and Zaldivar, JJ., concur.

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